

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DEPOSITION OF MR. MOSHE KERET

Held in Israel on:

January 16th, 2008

Transcribed BY:

הפרוטוקול נרשם ע"י:



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Stenogram Ltd

(DFE) Deposition of Mr. M.

16/1/2008

Keret

insist, we reserve the right to take the position that 1
this has now become a merits based deposition, and 2
we will not make Mr. Keret available a second time 3
for another deposition. 4

Adv. Matetsky: As I stated yesterday with respect to the deposition 5
of Mr. Weiss, all of my questions will be directed 6
toward the general area of discovery that we believe 7
germane to the jurisdictional issues and the foreign 8
non-convenience issues in this case. Every line of 9
questioning I pursue I will be doing so not with an eye 10
toward developing the merits of the case but because I 11
believe that it is relevant to those issues. With that 12
am going to place the witness under oath, with your 13
affirmation, so we can proceed with the deposition 14
am going to ask the witness, do you declare that the 15
testimony you are about to give today will be true and 16
correct under penalty of perjury under the laws of the 17
United States? 18

Mr. Keret: Yes, I do. 19

20

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Keret

Q:	When you were the CEO of IAI, where was your	1
	office located?	2
A:	At the Ben Gurion International Airport.	3
Q:	In addition to the facilities at Ben Gurion Airport, did	4
	IAI maintain other offices or facilities around the	5
	world?	6
A:	Yes.	7
Q:	Did IAI maintain offices or facilities in the United	8
	States?	9
A:	Yes.	10
Q:	Where in the United States?	11
A:	There was one affiliate in New York called IAI	12
	International. We had an office in Washington. We	13
	had a company, Commando Aviation in Miami that	14
	was later moved to New York and renamed as Empire.	15
Q:	Empire Aero?	16
A:	Yes.	17
Q:	Anything else?	18
A:	No.	19
Q:	What was the role of the New York office?	20

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Keret

A: The New York office's main role was to do the 1
procurement for IAI in the United States, and the 2
Washington office was to promote the sales of IAI in 3
the United States. 4

Q: Did IAI have substantial sales in the United States? 5

A: Yes. 6

Q: As best you recall as of, say, 2005 when you left the 7
company, what was IAI's total revenue for the year? 8

A: Two billion dollars. 9

Adv. Hurwitz: Ira, can I ask how this bears on the personal 10
jurisdiction motion, as IAI does not have a personal 11
jurisdiction motion? 12

Adv. Matetsky: It bears on IAI's position that it would be highly 13
inconvenient for IAI to litigate a case in the United 14
States. I think I mentioned at the outset that my 15
questioning would go to both personal jurisdiction 16
as well as foreign non-convenience related issues. This 17
won't be a lengthy topic but this is information I think 18
I am entitled to. 19

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Keret

Adv. Hurwitz: O.K., I disagree on the line of questioning on that
basis but, you know, in the interest of moving along
will let you ask it. 3

Adv. Matetsky: Thank you, your objection is noted, thank you. I
think you said that the annual revenue was about two
billion dollars? 6

Mr. Keret: Yes, sir. 7

Q: And how much of that was derived from the United
States? 8 9

Adv. Bak: Objection, culmination. 10

Adv. Matetsky: Do you know approximately how much of that was
derived from the United States? 12

Mr. Keret: Less than a billion dollars, about 700. 13

Q: 700 million? 14

A: At that year. 15

Q: Pardon? 16

A: In 2004 or '5. 17

Q: O.K., how many employees were in the New York
office of IAI during that time period? 18 19

Adv. Bak: Objection to the form. 20

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Keret

Mr. Keret:	What did he say?	1
Adv. Matetsky:	He is objecting because it is a question of whether	2
	you know. You are shaking your head. Do you know	3
	how many employees there were?	4
A:	No.	5
Q:	Do you know approximately how many employees	6
	there were?	7
A:	Thirty.	8
Q:	Thirty. And in the Washington office, approximately?	9
A:	Fifteen.	10
Q:	Do you know a gentleman named Stephen Wilson?	11
A:	Yes.	12
Q:	He is sitting right here to my right?	13
A:	Yes.	14
Q:	When did you first meet Mr. Wilson?	15
A:	I can't remember the date but let's say about the	16
	beginning of 2000 – no, earlier than that, the late	17
	nineties.	18
Q:	Didn't you meet him in 1994, sir?	19
A:	I don't remember.	20

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Keret

Q: Did Core Software agree to investment 60 million 1
dollars to pay for the launch and the insurance on the 2
back-up aero space satellite that was going to be 3
launched? 4

A: I know that that was the sum mentioned concerning 5
the launch of the satellite. I don't know whether CST 6
was committed to raise that money. 7

Q: Well, who was going to raise the money? 8

A: I think that was the purpose of the joint venture, to 9
raise money. 10

Q: Now Core was headquartered where, do you know? 11

A: I think somewhere in California. 12

Q: In the United States? 13

A: The United States. 14

Q: Did you have any understanding of where Core was 15
going to raise money for the enterprise? 16

A: Me personally, no. 17

Q: Did you discuss that with anyone at IAI or at Core? 18

A: Yes, my deputies discussed it with me, what is going 19
on in ISI. 20

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Keret

Q:	And who were the deputies you are referring to?	1
A:	Jacob and I think Nir or later on some of the guys that replaced him.	3
Q:	As the VP finance?	4
A:	Yes.	5
Q:	And by Jacob you mean Jacob Weiss?	6
A:	Yes.	7
Q:	Did you ever meet or hear of the participation of a person named Harvey Kruger in conjunction with the joint venture that became ImageSat?	10
A:	I met Harvey Kruger. I can't remember when I first met him. I know Harvey Kruger.	12
Q:	How do you know him?	13
A:	I don't know how I know him.	14
Q:	Did you ever discuss with him the joint venture or the West Indian Space or ImageSat or anything relating to them?	16
A:	I don't think so.	18
Q:	Do you know a gentleman named Ron Lubach?	19
A:	Yes, I know Ron Lubach.	20

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Keret

Q:	Who is he?	1
A:	He is an investment company in Israel.	2
Q:	Did you ever discuss with Mr. Lubach the joint	3
	venture or West Indian Space or ImageSat?	4
A:	I remember very vaguely that Lubach was in my	5
	office, I can't remember when, and it is possible that	6
	we discussed it.	7
Q:	Do you remember any of the details of the discussion	8
	at all?	9
A:	No.	10
Q:	Did it relate to work that was being done to try to	11
	raise money for the company?	12
A:	It could be.	13
Q:	You have no recollection at all?	14
A:	I said before, I remember vaguely that he was in my	15
	office. I can't remember the details of the discussion,	16
	but I knew Ron Lubach even before he came to Israel.	17
Q:	By the way, when you met with people, did you	18
	usually take notes?	19
A:	Sometimes.	20

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Keret

Q:	Did you keep the notes?	1
A:	No.	2
Q:	Did you keep a calendar?	3
A:	Yes, I have a calendar.	4
Q:	Do you have calendars going back to those years	5
	indicating whom you met with and when?	6
A:	No.	7
Q:	You only have your current calendar?	8
A:	Yes.	9
Q:	O.K. Do you know a gentleman named David Kosman?	10
A:	No.	11
Q:	That name doesn't mean anything?	12
A:	David Kosman?	13
Q:	Kosman, K O S M A N.	14
A:	No.	15
Q:	Let's take a two minute break.	16
(Short Break)		17
Adv. Matetsky:	Were you ever told, Mr. Keret, during the 1990s	
	that an investment bank, forget which one it was, but	
	were you ever told that an investment bank had signed	

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	a commitment letter to raise 60 million dollars, 6 0 1	
	million dollars, for the joint venture or for West 2	
	Indian Space? 3	
Mr. Keret:	Could be. 4	
Q:	O.K., do you recall? 5	
A:	Very vaguely. 6	
Q:	What do you vaguely recall? 7	
A:	That there was some discussions of investments that 8	
	we were looking for in this venture. Whether it was an 9	
	investment bank or a particular investment bank I 10	
	can't remember. 11	
Q:	Do you recall who the ultimate investors were going 12	
	to be? 13	
A:	Who? 14	
Q:	Who. 15	
A:	No. 16	
Q:	Do you recall where the investment bank or whoever 17	
	made the commitment was located? 18	
A:	No, I will explain again. 19	
Q:	Please do. 20	

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Keret

A:	I remember that we were trying to find investors.	1
	Whether it was an investment bank or private	2
	investors I cannot remember now.	3
Q:	You were looking to find investors. Were you looking	4
	to find investors in the United States?	5
A:	Not only, wherever.	6
Q:	Was a substantial amount of the activity related to	7
	finding the investors in the United States?	8
A:	Yes, it is natural, but we were looking also maybe to	9
	find some investors in Europe.	10
Q:	Why was it natural that a lot of the looking would be	11
	in the United States?	12
A:	Because this is a natural market for money.	13
Q:	The natural market for, ?	14
A:	For raising money.	15
Q:	Was the United States.	16
A:	In the United States.	17
Q:	In the United States. And in particular would that be	18
	New York?	19
A:	I guess so.	20

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Keret

Adv. Matetsky: Let me ask the question this way and just answer1

this yes or no. Did the company get advice from 2

lawyers on which jurisdiction would be most 3

favorable for tax reasons? 4

Mr. Keret: I don't know. 5

Q: Would that have been Mr. Weiss' responsibility? 6

A: I guess so. 7

Q: Did you discuss with anyone why the company was 8

being reincorporated in Curacao and the Netherlands, 9

Antilles, rather than some place else? 10

A: No. 11

Q: Have you ever been to Curacao? 12

A: No. 13

Q: Has IAI ever sent anyone to Curacao in connection14

with this? 15

A: I have no idea. 16

Q: You don't know of any instance in which IAI went17to

Curacao? 18

A: No. 19

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Keret

A:	Yes.	1
Q:	When was that?	2
A:	But I don't remember what time he was. It was a short time. Maybe Nissan was at that time.	4
Q:	You don't recall when Mr. Eldar was a director?	5
A:	No.	6
Q:	O.K.	7
Adv. Bak:	Objection to the form.	8
Q:	During the years that you were the chairman of the board of ImageSat, did ImageSat send out reports its shareholders called Investor Reports?	10 11
A:	Yes.	12
Q:	What was the purpose of the Investor Reports?	13
A:	I think it was providing them with information of what is going on in the company.	14 15
Q:	Did you expect the shareholders to rely that information to be accurate?	16 17
A:	Yes.	18
Q:	Who prepared the reports?	19
A:	The management of ISI.	20

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Keret

Q:	Do you know who within the management?	1
A:	I think at that time it was Menashe Braude.	2
Q:	Did he prepare the reports personally?	3
A:	I don't know.	4
Q:	To who were the reports distributed?	5
A:	To the shareholders.	6
Q:	Anybody else?	7
A:	I don't know.	8
Q:	Was it your understanding they were distributed to all of the shareholders?	10
A:	I don't know.	11
Q:	Were they intended to be distributed to all the shareholders around the world?	12
A:	I would guess so.	14
Q:	Do you know how they were sent out?	15
A:	No.	16
Q:	Did anyone ever speak to you about the contents of the reports?	18
A:	No.	19

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Keret

Q:	Did you receive them? Were they part of the board	1
	package?	2
A:	Yes.	3
Q:	Do you know at some point was a decision made to	4
	stop sending out the reports?	5
A:	Say again.	6
Q:	Do you know at some point was it decided to stop	7
	sending out the reports?	8
A:	No.	9
Q:	You don't know one way or the other?	10
A:	No.	11
Q:	Did there come a time when Bank Leumi became	12
	involved with ImageSat?	13
A:	Yes.	14
Q:	How did that come about?	15
A:	We needed money to finish the satellite and the	16
	company was looking for a bank loan. And then they	
	applied to Bank Leumi, I think, and got the loan.	18
Q:	Do you know whose idea it was to work with Bank	19
	Leumi?	20

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Adv. Matetsky: I think it is reasonably calculated to lead to 1
admissible evidence, but if this is where you are 2
drawing the line, I think the record will speak for 3
itself. Are you telling me you are taking the position 4
that if he answers this question, this becomes the 5
merits deposition instead of being over in fifteen 6
minutes? 7

Adv. Bak: I'm reserving the right – you also haven't made a 8
proffer about this is going to lead to a jurisdictional 9
inquiry as you have with previous lines of question 10.

Adv. Matetsky: Let me come at this way. Where were ImageSat 11
board meetings held? 12

Mr. Keret: In different places. 13

Q: Did the company receive advice at some point that 14
meetings should not be held in Israel? 15

A: Yes. 16

Q: Were many of the meetings held in New York? 17

A: Some meetings were made in New York. 18

Q: Did you attend meetings in New York. 19

A: Yes. 20

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Keret

Q:	Do you know why New York was chosen?	1
A:	It was for convenience.	2
Q:	New York is a convenient place to travel to?	3
A:	Yes.	4
Q:	Is it fair to say that some of the company's advisers	5
	were located in New York?	6
A:	Say again.	7
Q:	Some of the company's advisers were located in New	8
	York?	9
A:	Convenient for all the parties.	10
Q:	O.K. One of the directors of ImageSat was located in	11
	the United States, that was Mr. de Palma, correct?	12
A:	Yes.	13
Q:	Do you know where he lives?	14
A:	In think in Connecticut.	15
Q:	New York metropolitan area?	16
A:	Maybe, I don't know.	17
Q:	Were you one of the people who decided where the	18
	board meetings would be held?	19
A:	Yes, they were consulting with me.	20

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Keret

Q: And frequently you agreed to hold a meeting in New York because that would be a convenient place for it?

A: Some of the meetings we had in New York, some we had in Europe. 4

Q: Where in Europe? 5

A: In London, Paris. 6

Q: The board members were able to get to any of those 7 places? 8

A: Yes. 9

Q: Who attended the board meetings apart from the board members themselves? Were members of management invited? 10 12

A: Yes. 13

Q: And they were able to get to New York or London wherever the meeting was? 14 15

A: Yes. 16

(Short Break) 17

Adv. Matetsky: O.K., I just have a very few additional questions. 18
Based on Mr. Bak's objection to my question about 19
why Mr. Keret left the company, although I think 20

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could tie it up jurisdictionally, in the interests of 1
comedy I won't press that particular question at this 2
time. I'll reserve that to a later deposition. During the 3
years 2000 to 2005, Mr. Keret, when you were 4
director and the chairman of ImageSat, did you ever 5
travel to the United States on ImageSat business other 6
than to attend the board meetings? 7

A: No. 8

Q: Did you ever attend any committee meetings as 9
distinct from board meetings in the United States? 10

A: No. 11

Q: Did you ever attend any shareholder meetings in the 12
United States? 13

A: No. 14

Q: During the period 2000 through 2005, did you ever 15
travel to the United States on IAI business? 16

A: Yes. 17

Q: Approximately how often? 18

A: About three to four times a year. 19

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Keret

Q: Was there a particular pattern or purpose to those 1
trips or were they on an as needed basis? 2
A: No, but there were business trips that I made to meet 3
my clients and my partners in the United States. 4
Q: During any of those meetings was there any 5
discussion about whether IAI was proposing a 6
business transaction that might compete with 7
ImageSat? 8
A: No. 9
Q: Were any of those meetings relating to a deal that IAI 10
did with Norfolk Runner? 11
A: Not in my time. 12
Q: Were any of those meetings relating to potential 13
transactions with Lockheed concerning satellites? 14
A: Not in my time. 15
Adv. Matetsky: I thank you for coming today, Mr. Keret, I have 16
no further questions. 17
Mr. Keret: Thank you. 18
Adv. Bak: Mr. Keret, just one or two brief follow up questions. 19
20

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Keret

Mr. Moshe Keret responding to questions from Adv. Bak 1

Adv. Bak: Do you recall that Mr. Matetsky asked you about the
board meetings that took place in New York, and you
testified that New York was a convenient location. Do
you recall that? 5

A: Yes. 6

Q: Can you elaborate for me what it is you meant when
you said that New York is a convenient location? 8

A: New York is convenient because some of the
participants were living in New York, like Pegasus
and Jim de Palma. And it was convenient for me
because I could in between do my other trips either
to other places in the U.S. or Latin America. 13

Q: So often you would come to New York for a board
meeting and then travel from New York to another
location outside the U.S. for other business reasons? 16

A: Yes. 17

Adv. Matetsky: Objection to the form, leading the witness. 18

Adv. Bak: I have no further questions. 19

Adv. Matetsky: Counsel on the phone, are there any questions? 20

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Keret

Adv. Hurwitz: Yes, I have one or two questions. It is Jonathan 1
Hurwitz for IAI. 2

3

Mr. Moshe Keret responding to questions from Adv. Hurwitz

Adv. Hurwitz: Mr. Keret, you were asked some questions by Mr. 5
Matetsky about Mr. Eldar attending board meetings, 6
ISI board meetings. Do you recall that? 7

A: Yes. 8

Q: Do you recall whether Mr. Eldar attended one ISI 9
board meeting or more than one? 10

A: No, I don't remember. 11

Q: Do you recall whether Mr. Eldar was ever elected 12
director of ISI? 13

A: To the best of my recollection he was not a director. 14

Q: Do you recall whether Mr. Eldar was ever designated 15
as an alternate director of ISI? 16

A: Yes, that could be, but I can't tell you for sure. 17

Q: You don't have that specific recollection of him being 18
designated an alternate director of ISI? 19

A: No. 20

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Keret

Q: No meaning you do not have a specific recollection? 1

A: That's right. 2

Adv. Hurwitz: Thank you, I have no further questions. 3

Adv. Matetsky: Ms. Prickett-Morgan, do you have any questions? 4

Ms. Prickett-Morgan: No, I have no questions. 5

Adv. Matetsky: I have just a few follow-up questions. 6

7

Mr. Moshe Keret responding to questions from Adv. Matetsky

Adv. Matetsky: During the last break in the deposition, did you, 9

just answer this yes or no, did you speak to Mr. Bak

about the fact that he was going to ask you some 11

follow-up questions. 12

A: Yes. 13

Q: Did you speak to Mr. Hurwitz about the fact that he 14

was going to ask you some follow-up questions? 15

A: Yes. 16

Q: Did they tell you what questions they were going to 17

ask you? 18

Adv. Bak: Object. I instruct the witness not to answer on the 19

grounds of attorney-client privilege. 20

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Keret

Q: With respect to Mr. Eldar, do you recall whether 1
anyone at ImageSat was told that if one of the IAI 2
directors couldn't make a meeting, Mr. Eldar would 3
fill in for them? 4
A: No, that was not the case. 5
Q: Well, what did you mean when you referred to him as 6
possibly having been an alternate director? 7
A: Because I think that, I cannot remember precisely but 8
he could be an alternate to Yitzhak Nissan that was 9
the director at the time, when he could not participate. 10
Q: And was anybody told that that was Mr. Eldar's 11
status? 12
A: At the board meeting he presented himself. 13
Q: How? 14
A: I don't know, I can't remember. 15
Adv. Matetsky: Nothing further. 16
Adv. Bak: Anyone on the phone have any follow-up? 17
Adv. Hurwitz: No, no further questions. 18
Adv. Matetsky: At a later point in time the court reporter will type 19
up the transcript of your testimony. It will be sent to 20